

REMARKS

This paper is submitted in reply to the Examiner's Answer dated December 9, 2008, and accompanies a Petition to Revive the Application based on unintentional abandonment under 37 CFR §1.137. In response to the Examiner's Answer, Applicant hereby requests that prosecution be reopened under 37 CFR 41.39(b)(1), and that this paper be considered a responsive filing under this section.

In the Examiner's Answer, the Examiner maintained the prior rejection of claims 54-63 and 104-116 under 35 U.S.C. §103(a), and added a new grounds of rejection of all claims based upon 35 U.S.C. §101.

Applicant respectfully traverses the Examiner's rejections to the extent that they are maintained. The Examiner will note that claims 55, 58, 62-63, 106, 108 and 111 have been canceled without prejudice, and claims 54, 56-57, 69-61, 107, 109-110, and 112-114 have been amended. Applicant notes that the amendments made herein are being made only for facilitating expeditious prosecution of the aforementioned claimed subject matter. Applicant is not conceding in this application that the originally-claimed subject matter is not patentable over the art cited by the Examiner, and Applicant respectfully reserves the right to pursue this and other subject matter in one or more continuation and/or divisional patent applications.

First, with respect to the art-based rejections, Applicant notes that the Examiner's Answer once again misstates the references relied upon in the rejection. The Examiner's Answer incorrectly relies on U.S. Patent No. 5,613,012 to Hoffman et al. in view of U.S. Patent No. 5,983,200 to Slotznick, when the rejection that was being appealed was based on U.S. Patent No. 5,704,017 to Heckerman et al. in view of Slotznick.

Applicant has previously presented arguments addressing the patentability of the claims over both sets of references, and Applicant maintains a traversal of all art-based rejections. Nonetheless, Applicant has amended all independent claims herein to recite the additional concept that the unknown party is an intelligent agent configured to conduct electronic transactions, and that the plurality of attributes are selected from the group consisting of an agent name, a client name, a bank name, a bank account number, a credit card number, a homebase location, an agent program name, a location or name of a source

with which the unknown party communicates, and combinations thereof¹. Of note, therefore, all claims are directed at least in part to identifying an unknown intelligent agent that is interacting with another intelligent agent. It should also be noted that given that the claims are open-ended, additional attributes beyond those enumerated in the claims could also be compared in connection with identifying an unknown party.

As Applicant has argued previously, Applicant can find no disclosure in any reference that teaches any functionality that would even arguably be capable of ascertaining the identity of a computer program such as an intelligent agent, particularly one configured to conduct electronic negotiations. Heckerman does not attempt to identify any party, much less any intelligent agent. In addition, while Sloznick discloses an authorization or login procedure that enables a client to delegate tasks to an intelligent agent, it is quite evident from the reference that this procedure (e.g., as discussed at col. 16, line 65 to col. 17, line 34, which involves a user entering a password and user ID, or alternatively biometric information) is for the purpose of identifying a human being, rather than an intelligent agent or other type of computer program.

It should also be noted that the Examiner has provided no explanation for where in any reference any of the enumerated attributes (“an agent name, a client name, a bank name, a bank account number, a credit card number, a homebase location, an agent program name, a location or name of a source with which the unknown party communicates”) are found.

Applicant therefore respectfully submits that claims 54, 56-57, 59-61, 104-105, 107, 109-110 and 112-116 are novel and non-obvious over the prior art of record. Reconsideration and allowance of all of these claims are therefore respectfully requested.

Next, turning to the §101 rejections, the Examiner will note that Applicant has amended method claims 54, 113 and 114 to clarify that the method comprises “in a computer of the type including at least one processor, executing a program to perform” the recited steps, such that the claims recite the machine performing such steps as required by

¹ Specifically, independent claim 54 has been amended to incorporate the subject matter of claim 58, independent claim 60 has been amended to incorporate the subject matter of claim 106, independent claim 61 has been amended to incorporate the subject matter of claim 111, and independent claims 113 and 114 have been amended to incorporate similar subject matter to that added to claim 1. Claims 55, 58, 106, 108 and 111 have been canceled, and claims 56-57, 69, 107, 109, 110 and 112 have been amended for consistency with the amendments made to the respective independent claims.

In re Bilski. Likewise, apparatus claim 60 has been amended to recite at least one processor, and that the identification module comprises “instructions configured upon execution by the at least one processor,” while program product claim 61 has been amended to recite a “recordable computer readable medium” and that the program is stored on the recordable computer readable medium and configured upon execution to perform the recited operations. Thus these claims do not merely recite software per se, and are directed to statutory subject matter. Withdrawal of the Examiner’s §101 rejections are therefore respectfully requested.

In summary, Applicant respectfully submits that all pending claims are novel and non-obvious over the prior art of record. Reconsideration and allowance of all pending claims are therefore respectfully requested. If the Examiner has any questions regarding the foregoing, or which might otherwise further this case onto allowance, the Examiner may contact the undersigned at (513) 241-2324. Moreover, if any other charges or credits are necessary to complete this communication, please apply them to Deposit Account 23-3000.

Respectfully submitted,

February 16, 2009
Date

/Scott A. Stinebruner/
Scott A. Stinebruner
Reg. No. 38,323
WOOD, HERRON & EVANS, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202
Telephone: (513) 241-2324
Facsimile: (513) 241-6234